



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:

Public Notice No. 200200348

Application No.:

NA

Address comments to:

Issuance Date:

February 27, 2003

Expiration Date:

February 27, 2008

US Army Corps of Engineers, Huntington District
502 Eighth Street
ATTN: CELRHF
Huntington, West Virginia 25701-2070

REGIONAL PERMIT FOR MAINTENANCE DREDGING AT DOCKS

TO WHOM IT MAY CONCERN: In accordance with Title 33 CFR 325.5(c)(1) as published on November 13, 1986, in the Federal Register, Volume 51, Number 219, the District Engineer, U.S. Army Engineer District, Huntington, West Virginia, proposes to reissue a regional permit for maintenance dredging at docks pursuant to Section 10 of the Rivers and Harbors of 1899.

The reissuance of this permit would authorize small maintenance dredging activities at existing docks in the following waterways:

Big Sandy River, Catlettsburg, Kentucky to Cyrus, West Virginia (mouth to mile 9.0);

Elk River, Charleston, West Virginia (mouth to mile 3.0);

Kanawha River, Point Pleasant, West Virginia to Alloy, West Virginia (mouth to mile 90.0);

Little Kanawha River, Parkersburg, West Virginia (mouth to mile 5.0);

Muskingum River, Marietta, Ohio (mouth to mile 3.0); and

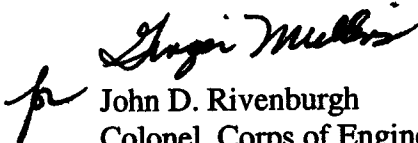
Ohio River, New Martinsville, West Virginia to Foster, Kentucky (mile 127.2 to mile 438.0).

Those who wish to perform maintenance dredging must notify the District Office at least 30 days prior to initiation of the work. Such notification must include a written description and sketch of the proposed work and disposal area. Maintenance dredging which is performed in compliance with the listed special conditions and general conditions will qualify for authorization. Dredging may commence at the end of the 30-day period unless the project proponent is notified that the proposal does not satisfy the conditions of the regional permit.

The terms and conditions of this regional permit are attached and will be subject to reconsideration at any time, but at least every five years.

Further information is available from:

Department of the Army
U.S. Army Corps of Engineers
Attn: CELRH-OR-F
502 Eighth Street
Huntington, WV 25701-2070
Phone 304-529-5210 (OH)
304-529-5710 (WV, KY)


John D. Rivenburgh
Colonel, Corps of Engineers
District Engineer

(OH, KY, WV)

**SPECIAL AND GENERAL CONDITIONS FOR
THE PROPOSED REGIONAL PERMIT FOR
MAINTENANCE DREDGING AT DOCKS**

SPECIAL CONDITIONS:

1. Dredging in island backchannels and along the shoreline within 1000' upstream and 1000' downstream of any island is not authorized by this permit.
2. This permit authorizes dredging, subject to all listed conditions, only at existing docks.
3. The maximum volume authorized to be dredged by this regional permit is 1,000 cubic yards.
4. A single project may not be subdivided to exceed the maximum quantity designated within this regional permit.
5. This permit does not authorize the placement of dredged or fill material below the ordinary high water elevation in any stream or into jurisdictional wetland areas.
6. No dredged material may be disposed of at a location such that it would impair surface water flow into or out of any wetland areas.
7. The only location permissible for disposing dredged material is a contained upland site. Notice must be provided to the Corps upon completion of the activity so that the disposal area may be inspected. In Kentucky: applicants should contact the Kentucky Department for Environmental Protection, Division of Water regarding potential upland, non-floodplain disposal sites. In West Virginia: applicants are responsible for compliance with solid waste regulations, and/or other appropriate state regulations. In Ohio, Kentucky, and West Virginia, any new disposal sites must be coordinated with the respective state agency responsible for cultural resources.
8. The disposal area shall be graded, seeded, and mulched upon completion of the dredging, except for disposal in treatment ponds or lagoons.
9. Proper notification, including information depicting the location of the proposed dredging, the method to be used, the approximate volume to be removed, the exact location of the contained upland disposal area, and the duration of the dredging activities must be provided at least 45 days prior to the work.

10. No dredging may be performed between April 1 and June 30.
11. Dock owners are reminded that authorization may be delayed or denied due to annual Corps of Engineers maintenance dredging activities at any location.
12. No dredging is permitted for the sole purpose of obtaining raw material or for the expansion of a project beyond the scope of the original dock permit (i.e. beyond original project depths or the length of the mooring or maneuvering areas).
13. All notifications for maintenance dredging at docks on the Kanawha River downstream of mile 45.0 (approximately at the mouth of the Coal River) must include the results of sieve analysis at three equally spaced locations throughout the area to be dredged. All results must be reported as percent dried weight passing the number 200 sieve. If any sample contains material that is 10 percent or finer than the number 200 sieve, additional testing must be conducted to determine the possible presence of dioxin, associated furans, and PCBs. A Corps of Engineers or U.S. Environmental Protection Agency certified laboratory must perform the testing and the results must be submitted to this office along the dredging notification.
14. Approval must be received in writing prior to any maintenance dredging at docks on the Kanawha River downstream of mile 45.0.
15. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species.
16. The USFWS Elkins WV Field Office will be notified if a project proposed under this permit is located in the Kanawha River in Fayette County (from Kanawha Falls to river mile 89.0 near Boomer) and in the Ohio River in Cabell, Mason, and Wood Counties, WV.
17. The USFWS Reynoldsburg Ohio Field Office will be notified if a project under this permit is proposed in the Muskingum River from the mouth to milepoint 3.0.
18. For projects proposed in West Virginia, the WVDNR-Office of Real Estate Management should be contacted at 304-558-3225 to determine if a Public Lands Corporation permit will be required prior to the initiation of any maintenance dredging activities.

GENERAL CONDITIONS:

1. The activity authorized by this permit must be maintained in good condition and in conformance with the terms and conditions of this permit. Abandonment of the permitted activity will not relieve this requirement although a good faith transfer to a third party may be made. Cessation of maintenance of this authorized activity or abandonment without a good faith transfer must be authorized by a modification of this permit by this office. The modification may require restoration of the area.
2. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, notification must immediately be provided to this office. The Corps of Engineers will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort if the site is eligible for listing in the National Register of Historic Places.
3. Representatives from the Corps of Engineers will be allowed to inspect the authorized activity at any time deemed necessary to insure that it is being or has been accomplished in accordance with the terms and conditions of this Regional Permit.

FURTHER INFORMATION:

1. Congressional Authorities: This activity has been authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. Limits of Authorization:
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal liability: In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Dangers to persons, properties or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on the applicant's data: The determination of this office that the activity is not contrary to the public interest was made in reliance on the information provided pursuant to the notification requirement. Any change to the description may make the project ineligible for authorization by the regional permit.

5. Reevaluation of the permit decision: This office may reevaluate its decision on the permit at any time that the circumstances warrant. Circumstances that could require reevaluations include but are not limited to the following:

a. Failure to comply with the terms and conditions of this permit.

b. The information provided in support of the project description proves to have been false, incomplete or inaccurate.

c. Significant new information surfaces that this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring compliance with the terms and conditions of the permit

and for the initiation of legal action where appropriate. The project proponent will be required to pay for any corrective measures ordered by this office, and for failure to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the proponent for the cost.

6. Consent to Easement over lands owned by the government is attached, if applicable.

